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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JAMES S. TATE, JR, M.D.

Plaintiff,

vs.

STATE OF NEVADA BOARD OF
MEDICAL EXAMINERS; BEVERLY
NEYLAND, M.D., in her individual
capacity; MICHAEL FISCHER, M.D., in
his individual and official capacity;
DONNA RUTHE, in her individual and
official capacity; SUE LOWDEN, in her
individual and official capacity; DOE
Defendants I through X, inclusive; and
ROE CORPORATIONS A through Z,
inclusive,

Defendants.

Case No.: 2:11-cv-1613-JCM-LRL

**ORDER GRANTING PLAINTIFF'S
EX PARTE EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER
AND SCHEDULING PRELIMINARY
INJUNCTION HEARING**

WHEREAS Plaintiff has come before this Court, through his Emergency Ex Parte Motion for Temporary Restraining Order (Document 2), this Court finds that Plaintiff has met the requirements for the issuance of a Temporary Restraining Order, in that:



- A. Plaintiff will suffer irreparable harm if Defendants are allowed to take any further action to effectuate the discipline ordered against Plaintiff at the Defendants' meeting held on September 9, 2011, and finalized through the Findings of Fact, Conclusions of Law and Order filed September 28, 2011;
- B. Plaintiff has demonstrated a likelihood of success;
- C. Public policy supports the issuance of a Temporary Restraining Order in this case to preserve the status quo; and
- D. The balance of the hardships is in favor of Plaintiff under the circumstance.

THEREFORE, the Court, having examined memoranda of the Plaintiff and the records and documents on file, and good cause appearing hereby orders the following:

IT IS SO ORDERED that PLAINTIFF'S EX PARTE EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER is **GRANTED** and from the date of entry of this Order and for fifteen days thereafter, DEFENDANTS, their agents, employees, attorneys, and anyone acting on their behalf, shall be hereby prevented from:

1. filing a report with the National Practitioner Data Bank regarding the finding of facts and subsequent discipline ordered against Plaintiff at the Defendants' meeting held on September 9, 2011, and finalized through the Findings of Fact, Conclusions of Law and Order filed September 28, 2011, and
2. enacting or effectuating the discipline ordered against Plaintiff at the Defendants' meeting held on September 9, 2011, and finalized through the Findings of Fact, Conclusions of Law and Order filed September 28, 2011.

IT IS FURTHER ORDERED that Plaintiff's Motion for Temporary Restraining Order shall be converted into a Motion for Preliminary Injunction.

IT IS SO ORDERED that the hearing on Plaintiff's Motion for Preliminary Injunction shall be set for October 20, 2011, at 10:30 a.m. Opposition due October 13, 2011; reply due October 18, 2011.

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1 **IT IS FURTHER ORDERED** that within 7 days from the date of this Order,
2 Plaintiff shall pay \$ 100.00 to the Clerk of the Court as a surety bond, which shall be
3 held by the Clerk until further order of this Court.

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5 **IT IS SO ORDERED.**

6 October 6, 2011
7 DATE: _____

8 TIME: 3:55 p.m.

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11 *James C. Mahan*
12 US DISTRICT COURT JUDGE JAMES C. MAHAN
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